

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

M.F., *individually and on behalf of J.F.*,

Plaintiff,

-v-

NEW YORK STATE DEPARTMENT OF EDUCATION,

Defendant.

23 Civ. 2017 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On July 10, 2023, the Court approved the parties' proposed briefing schedule for defendant's anticipated motion to dismiss and plaintiff's anticipated cross-motion for summary judgment. Dkt. 16. On August 18, 2023, pursuant to that schedule, defendant filed a motion to dismiss the complaint under Rule 12 of the Federal Rules of Civil Procedure. Dkt. 17. Plaintiff did not cross-move for summary judgment.

Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by September 8, 2023. No further opportunities to amend will ordinarily be granted. If plaintiff does amend, by September 22, 2023, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss, pursuant to the proposed briefing schedule, by September


¹ If defendant files a new motion to dismiss or relies on their previous motion, plaintiff's opposition will be due 14 days thereafter, and defendant's reply, if any, will be due seven days after that.

18, 2023. Defendant's reply, if any, shall be served by October 2, 2023. At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to

EngelmayerNYSDChambers@nysd.uscourts.gov.

The Court will determine later, after receipt of plaintiff's anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: August 21, 2023
New York, New York